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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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MICHAEL A. BACON,  
  
Plaintiff,

v.

UNITED STATES OF AMERICA,  
  
Defendant.

**MEMORANDUM DECISION AND  
ORDER DENYING MOTION TO  
ALTER OR AMEND JUDGMENT**

Case No. 2:15-cv-00179-DN-BCW

District Judge David Nuffer

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Magistrate Judge Wells’ recommended Plaintiff Michael A. Bacon’s Second Amended Complaint be dismissed for “lack of ripeness and subject matter jurisdiction as [Mr.] Bacon had not fully pursued available state-court remedies.”<sup>1</sup> Mr. Bacon filed an filed an Objection<sup>2</sup> and Memoranda<sup>3</sup> in Support of his Objection. In his Memorandum in support of his Objection, Mr. Bacon attempts to alter his complaint to include an allegation that the Defendants violated his Fourth Amendment rights.<sup>4</sup> On June 5, 2018, the Report and Recommendation was adopted<sup>5</sup> and Mr. Bacon’s untimely request to amend the complaint was not considered.<sup>6</sup> A Judgment was entered and the case was closed.<sup>7</sup>

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<sup>1</sup> Report and Recommendation, [docket no. 81](#), filed April 12, 2018.

<sup>2</sup> Objection to Magistrate Judges *[sic]* R&R (“Objection”), [docket no. 84](#), filed April 20, 2018.

<sup>3</sup> [Docket no. 85](#), filed April 25, 2018; [docket no. 86](#), filed April 30, 2018; [docket no. 88](#), filed May 9, 2018.

<sup>4</sup> Memorandum, [docket no. 85 at 3](#).

<sup>5</sup> [Docket no. 90](#), filed June 5, 2018.

<sup>6</sup> Report and Recommendation at 5.

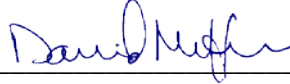
<sup>7</sup> [Docket no. 91](#), filed June 5, 2018.

Mr. Bacon seeks to alter or amend<sup>8</sup> the Judgment. He argues he timely made a motion to amend his complaint prior to the Report and Recommendation.<sup>9</sup> Mr. Bacon makes this same argument in his Objection to the Memorandum Decision and Order Adopting Report and Recommendation.<sup>10</sup> This argument lacks merit—the Second Amended Complaint was dismissed because Mr. Bacon failed to exhaust state remedies. Amending his complaint for the third time would not change the fact that Mr. Bacon failed to exhaust state remedies.

IT IS HEREBY ORDERED that Mr. Bacon’s Motion<sup>11</sup> is DENIED.

Dated August 15, 2018.

BY THE COURT:



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David Nuffer  
United States District Judge

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<sup>8</sup> Motion to Alter or Amend a Judgment (“Motion”), [docket no. 98](#), filed July 9, 2018.

<sup>9</sup> Motion at 1-2.

<sup>10</sup> [Docket no. 93](#), June 18, 2018.

<sup>11</sup> [Docket no. 98](#), filed July 9, 2018.